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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/896,380	06/29/2001	Gary L. Graunke	42390P11153	9543

7590 08/30/2006

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EXAMINER

SHIFERAW, ELENI A

ART UNIT	PAPER NUMBER
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2136

DATE MAILED: 08/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/896,380

Applicant(s)

GRAUNKE, GARY L.

Examiner

Eleni A. Shiferaw

Art Unit

2136

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 15 August 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-21.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

**NASSER MOAZZAMI
PRIMARY EXAMINER**

[Signature]
8,28,06

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's argument filed on 08/15/2006 is not persuasive. Regarding simultaneously decrypting and re-encrypting, or "There is no mention of simultaneously encrypting and decrypting (Remark page 4 par. 1 and 4)" the Examiner already stated, on page 2 par. 4 of the Office Action mailed on 07/07/2006, that the argued limitation above does not clearly identify the invention as disclosed in the disclosure and the examiner provided a broadest reasonable claim interpretations according to MPEP "During patent examination, the pending claims must be "given *">their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000).< Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969)" (see, MPEP 2111 [R-1]). As the last Office Action on page 5 describes, Kamiya teaches simultaneously encrypting encryption keys and simultaneously decrypting encryption keys (see, 0129). And as the Appellant and the Examiner agreed on telephone interview on 10/18/2005 regarding this limitation argued above, the Appellant agreed to amend the limitation to particularly point out the invention and the office mailed the following to the Appellant "During the interview, we discussed about how the applied reference reads on the claim limitations. Our discussion was focused on the limitation "simultaneously decrypting and re-encrypting the encrypted streamed content using a combination of the first and the second cipher streams;" No agreement was made. Applicant agreed to file an RCE in a better claim language that shows the novelty of the invention. And examiner agreed to consider the applied reference and consider further searching if necessary." Based on the Amendment provided to the Office, the examiner combined Menezes that discloses a cipher chaining block (CBC) of multiple encryption method to simultaneously re-encrypting ($E(x) = Ek2(Ek1(data))$) and decrypting plain text data (the corresponding decryption function and key is applied to simultaneously decrypt $D=E^{-1}$) using a combination of the first and second cipher streams ($Ek1, Ek2, Dk1$ and $Dk2$) (see, page 233-237 section 7.2.3-7.42) to reasonably address the amended limitation. "simultaneously decrypting and re-encrypting" is interpreted as CBC of multiple encryption method to simultaneously (at the same time) re-encrypting and decrypting plain text data using combination of first and second cipher streams, as taught by Menezes pages 233-237, section 7.23-7.42, $EK2(EK1(data))$. And simultaneously encrypted data is also decrypted simultaneously ($Dk1$, and $Dk2$). Regarding argument on page 4 par. 1 of the Remark wherein "There is no mention of decrypting with one key and encrypting with another" it is not claimed.

- Regarding argument on page 5 par. 1 of the remark wherein "There is no mention of combining an encryption key with a decryption key", argument is not persuasive. Menezes discloses $Ek1$ and $Ek2$ to simultaneously encrypt and $Dk1$ and $Dk2$ to simultaneously decrypt (see, page 233-237 section 7.2.3-7.42).
- Regarding argument on page 5 par. 1 of the remark, the Appellant requiring the Office to consider limitation "decrypting and re-encrypting using a combination of the first and the second cipher streams" based on "the result of combining two things here the first and second cipher streams", The Office has fully considered the limitation and Menezes discloses the first and second cipher streams or $Ek1$ and $Ek2$ to simultaneously encrypt and $Dk1$ and $Dk2$ to simultaneously decrypt (see, page 233-237 section 7.2.3-7.42).
- Regarding arguments for claim 3-4, and 10 on page 5 par. 4-6 of the Remark, the Appellant has filed multiple remarks on 02/22/2005, 07/18/2005, 10/17/2005, 04/20/2006 and had a telephone interview with the Examiner on 10/18/2005, but never argued before, for claims 3-4 and 10. Appellant's argument is not persuasive because it is considered as Admission. Accordingly, rejections for claims 1-21 are respectfully maintained.